

REMARKS/ARGUMENTS

In response to the Office Action mailed October 17, 2008, Applicants request continued examination. In this Amendment all formerly pending claims have been cancelled in favor of a single new claim, claim 24. Thus, upon entry of the foregoing Amendment, claim 24 will be pending.

Claim 24 closely follows a claim of the Japanese priority patent application. That claim was allowed by the Japanese Patent Office in the second half of 2008.

New claim 24 is fully supported by the patent application as filed, particularly with respect to the description of Embodiment 2 from page 14, line 5 through page 21, line 19 of the patent application as filed. The description of Embodiment 1, particularly from page 8, line 6 through page 12, line 15, and page 13, lines 9-15, also supports the newly submitted claim.

In the most recent Office Action one claim was rejected as indefinite and all claims were rejected over prior art. The rejection as to form is not applicable to, the newly submitted claim. Former claims 17, 21, and 23 were rejected as unpatentable over Pauly et al. (U.S. Patent 4,958,280, hereinafter Pauly) in view of Fay (U.S. Patent 5,983,201) and further in view of Eberhardt (U.S. Patent 5,659,741). This rejection is continued to be traversed as not sufficient to demonstrate obviousness of new claim 24. Claims 20 and 22 were rejected over the same combination of publications and a further publication. However, in view of the limitations of those claims, which have no counterpart limitations in claim 24, that rejection needs no response.

As a general point, Applicants continue to protest the reliance upon Fay as a prior art publication pertinent to the invention for the reasons already submitted. Fay concerns a system for selling eyeglass frames which has no relationship to the provision of a prescription item, such as a contact lens, that requires the involvement of a medical professional. The previous arguments with respect to reliance upon Fay are maintained and are incorporated by reference and not set out again at length.

New claim 24 describes a complex system for selling contact lenses including networked communication between information processing apparatus, e.g., computers, located at ophthalmologists and at contact lens sellers, i.e., providers of contact lenses. Claim 24 details the structure of this hardware and ties the claimed system to that hardware. As understood from the patent application, the reference to ophthalmologists is not limited to medical doctors but is directed to those who are authorized in any particular jurisdiction to prescribe contact lenses.

Among other steps in the claimed method there is a determination of an interval for exchanging contact lenses. In the claimed method, information concerning the dispensing of contact lenses, i.e., the date of sale, characteristics of the contact lenses, and the ophthalmic diagnosis of the eyes of the contact lens users are collected in the first group information processing apparatus, i.e., at the contact lens seller. There, a determination is made as to the date when the contact lenses should be exchanged based upon that information that has been supplied, namely the date of issuance of the contact lenses, information concerning the characteristics of the issued contact lenses, and the nature of the correction required, i.e., the ophthalmic diagnosis. This information is subsequently passed to the contact lens user as described in the final step of claim 24, so the user is notified of the date when the lenses should be exchanged, i.e., replaced, by fresh lenses.


In the Office Action of November 17, the only basis for asserting that these features are described in the prior art is a reference to column 7, lines 9-21 of Pauly. However, that paragraph is insufficient to meet the claim limitations. That paragraph merely describes altering a particular wear schedule or shipment schedule, not the generation of any wear schedule, i.e., an exchange time, as determined from the specific factors mentioned in claim 24.

Moreover, a complete review of the specification of Pauly, including an electronic word search, demonstrates that the wear schedule described and referred to in Pauly simply concerns the passage of time. There is no other basis described in Pauly for determining an exchange interval so that Pauly does not take into account, as the

invention does, contact lens information and the ophthalmic diagnosis. See, for example, Pauly at column 6, lines 45-57 describing the determination of a shipping schedule for contact lenses. This difference is sufficient, in view of the disclosures of the other cited publications, to demonstrate that new claim 24 is clearly patentable over any potential combination of the references of record.

Reconsideration and allowance of claim 24 are earnestly solicited.

Respectfully submitted,



Jeffrey A. Wyand, Reg. No. 29,458
LEYDIO, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960
(202) 737-6770 (telephone)
(202) 737-6776 (facsimile)

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